

SUPREME COURT OF WISCONSIN

Case No.: 96-2797-CR

Complete Title
of Case:

State of Wisconsin,
Plaintiff-Respondent,
v.
Deborah J.Z.,
Defendant-Appellant.

ON CERTIFICATION FROM THE COURT OF APPEALS

Opinion Filed: April 9, 1999
Submitted on Briefs:
Oral Argument: December 3, 1998

Source of APPEAL

COURT: Circuit
COUNTY: Racine
JUDGE: Dennis J. Barry

JUSTICES:

Concurred:
Dissented:
Not Participating: Abrahamson, C.J., did not participate

ATTORNEYS: For the defendant-appellant there were briefs by Sally A. Hoelzel, Racine and Priscilla Smith, Bonnie Scott Jones and Center for Reproductive Law & Policy, New York NY and oral argument by Priscilla Smith.

For the plaintiff-respondent the cause was argued by Joan M. Korb, assistant district attorney, with whom on the briefs was Robert S. Flancher, district attorney.

Amicus curiae brief was filed by Charles H. Barr and Croen & Barr, of counsel, Peter M. Koneazny and American Civil Liberties Union of Wisconsin, Inc., all of Milwaukee for the American Civil Liberties Union of Wisconsin, Inc., American

Nurses Association, American Public Health Association, Coalition on Addiction, Pregnancy & Parenting, Legal Action Center, National Council on Alcohol & Drug Dependence, National Women's Health Network, NOW Legal Defense & Education Fund, Pennsylvania Coalition Against Domestic Violence, Planned Parenthood of Wisconsin, Women's Law Project, and Women's Rights Litigation Clinic.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

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FILED

APR 9, 1999

**Marilyn L. Graves
Clerk of Supreme Court
Madison, WI**

APPEAL from an order of the Circuit Court for Racine County, Dennis J. Barry, Judge. *Order granting certification vacated and cause remanded to the court of appeals.*

¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the order of the circuit court on the charge of attempted first degree intentional homicide. Justice Donald W. Steinmetz, Justice Jon P. Wilcox, and Justice N. Patrick Crooks would affirm; Justice William A. Bablitch, Justice Ann Walsh Bradley, and Justice David T. Prosser would reverse.

¶2 When a certification results in a tie vote by this court, a course of action is to vacate our decision to accept certification and remand the cause to the court of appeals. State v. Watson, 209 Wis. 2d 281, 282, 562 N.W.2d 151 (1997) (vacating order granting certification and remanding to court of appeals); State v. Richard Knutson, Inc., 191 Wis. 2d

395, 396-97, 528 N.W.2d 430 (1995)(remanding to court of appeals on a tie vote on certification).

¶3 Accordingly, we vacate our order granting certification and remand the cause to the court of appeals.

¶4 SHIRLEY S. ABRAHAMSON, CHIEF JUSTICE, did not participate.

